

REMARKS

The Final Office Action mailed on August 11, 2008 has been reviewed and the comments of the Examiner carefully considered. Claims 1-6 and 9-16 are pending. Claims 1, 9-11, and 16 have been amended. No new matter has been added by way of these amendments.

Rejections under 35 U.S.C. § 112

Claims 1-6 and 9-16 currently stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Regarding independent claims 1 and 16, the Examiner stated that the claims were confusing with respect to the relationship between the absorbent plug and the diagnostic test reagent. Without any admission as to the propriety of the rejection, and for the purpose of furthering prosecution only, applicants have herein amended independent claims 1 and 16 to further clarify the relationship between the absorbent plug and the diagnostic test reagent.

Applicants respectfully request withdrawal of the rejections of claims 1 and 16 under 35 U.S.C. § 112 and submit that the claims, as presently amended, are therefore in condition for allowance. Further, applicants submit that claims 2-6 and 9-15 are thereby allowable as written as depending from an allowable independent claim.

Rejections under 35 U.S.C. § 102/103

- Claims 1, 3-5, and 11-16 were rejected under 35 U.S.C. § 102(b) as anticipated by, or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Berke et al. (US 5,084,245).**

Applicants respectfully disagree with the rejection. Applicants respectfully submit that Berke et al. does not teach, suggest, or otherwise disclose all limitations of the instant claimed invention. As the Examiner noted, Berke et al. does not specifically teach an annular diagnostic strip extending radially around the inside of the cap. However, the Examiner stated that because the location of the test reagents in the instant claims are vague, and because Berke et al. teaches that the test reagents are located on the absorbent plug, then Berke et al. is seen to anticipate or make obvious the claimed invention.

Independent claims 1 and 16 have been amended to clarify the location of the diagnostic test reagents. Specifically, the claims recite:

“at least one diagnostic test reagent is provided in or on an annular diagnostic strip extending radially around the inside of the cap”.

This limitation is not taught, suggested, or otherwise disclosed by Berke et al. Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1 and 16 under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) over Berke et al. because the cited art does not describe nor suggest the claimed invention. Further, applicants submit that claims 3-5 and 11-15 are thereby allowable as written as depending from an allowable independent claim.

2. Claims 6 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Berke et al. in view of Sayles (US 5,429,804).

Applicants respectfully disagree with the rejection.

Sayles discloses a testing device having a lower cup for receipt of a fluid specimen and a lid containing a chamber having one or more reagent strips protruding therefrom, such reagent strips having color change testing areas thereon. The lid is attachable to the cup with the device to be inverted for the fluid specimen to reach the protruding reagent strips and for the device to be set upright for the reading of the color change testing areas through a transparent area of the lid (*see, e.g.*, Abstract). Sayles does not disclose an annular diagnostic strip extending radially around the inside of the cap. Thus, as Sayles cannot cure the deficiencies of Berke et al., applicants respectfully submit that claims 6 and 10 are thereby allowable as written as depending from an allowable independent claim.

2. Claims 2 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Berke et al.

Applicants respectfully disagree with the rejection. As discussed above, Berke et al. does not teach, suggest, or otherwise disclose the location of the diagnostic test reagents as in or on an annular diagnostic strip extending radially around the inside of the cap. Consequently, applicants therefore respectfully submit that claims 2 and 9 are thereby allowable as written as depending from an allowable independent claim.

Conclusion

Applicants respectfully submit that the claims are in condition for allowance. An early Notice of Allowance is therefore earnestly solicited. Applicants invite the Examiner to contact the undersigned at (215) 963-5337 to clarify any unresolved issues raised by this response.

The Director is hereby authorized to charge/credit Deposit Account No. **50-0310** (Billing No. 101713-5024) for any other required fees, deficiencies or overpayments in connection with this Response.

Respectfully submitted,

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